

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

## UNITED STATES DISTRICT COURT

for the  
District of Nebraska

Division

Case No.

8:21cv101  
(to be filled in by the Clerk's Office)FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA  
2021 MAR 11 AM 11:43  
OFFICE OF THE CLERKJury Trial: (check one) ☒ Yes ☐ No

Michael Franklin

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

General Assistance  
Carmela Smith  
Omaha Housing Authority

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

## COMPLAINT FOR A CIVIL CASE

## I. The Parties to This Complaint

## A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address

Michael Franklin  
~~122 N 30th St Apt 2~~  
122 N 30th St Apt 2  
Omaha, United States  
Nebraska 68131  
~~402-522-6184~~ 402-522-6184  
Financial Freedom 402@gmail.com

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

## Defendant No. 1

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number  
E-mail Address *(if known)*

Omaha Housing Authority  
State low income Housing  
1823 Harney St  
Omaha, ~~united~~ Douglas  
NE 68107  
4024446900

## Defendant No. 2

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number  
E-mail Address *(if known)*

Carmela Smith  
Site Manager  
600 S 27th St  
~~Omaha~~ Omaha, United States  
NE 68107  
4024446900

## Defendant No. 3

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number  
E-mail Address *(if known)*

General Assistance  
~~1111 S 41st~~  
1111 S 41st # 220  
Omaha, Douglas  
NE, 68105  
402 444 6215

## Defendant No. 4

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number

E-mail Address (if known) \_\_\_\_\_

**II. Basis for Jurisdiction**

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question ☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Discrimination, Wrongful termination of lease  
Breach of Contract  
Harassment, Fraud

**B. If the Basis for Jurisdiction Is Diversity of Citizenship**

## 1. The Plaintiff(s)

## a. If the plaintiff is an individual

The plaintiff, (name) [Signature], is a citizen of the  
State of (name) Alaska.

## b. If the plaintiff is a corporation

The plaintiff, (name) \_\_\_\_\_, is incorporated  
under the laws of the State of (name) \_\_\_\_\_,  
and has its principal place of business in the State of (name) \_\_\_\_\_.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

## 2. The Defendant(s)

## a. If the defendant is an individual

The defendant, (name) \_\_\_\_\_, is a citizen of \_\_\_\_\_.

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the State of *(name)* \_\_\_\_\_ . Or is a citizen of  
*(foreign nation)* \_\_\_\_\_ .

b. If the defendant is a corporation

The defendant, *(name)* \_\_\_\_\_ , is incorporated under  
 the laws of the State of *(name)* \_\_\_\_\_ , and has its  
 principal place of business in the State of *(name)* \_\_\_\_\_ .

Or is incorporated under the laws of *(foreign nation)* \_\_\_\_\_ ,  
 and has its principal place of business in *(name)* \_\_\_\_\_ .

*(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)*

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

\$15,000,000

### III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

### IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

**V. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3/11/21

Signature of Plaintiff

Printed Name of Plaintiff

Michael Frank  
Michael Frank

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF**  
**NEBRASKA DOUGLAS COUNTY**

MICHAEL L FRANKLIN	)	
	)	
Plaintiff.	)	
	)	Complaint for Wrongful
	)	Termination of Lease,
	)	Breach of Contract,
	)	Harassment, Discrimination
	)	and Fraud.
	)	
	)	
	)	
v.	)	JURY DEMAND
	)	
1. Carmela Smith,	)	
2. Omaha Housing Authority	)	
3. General Assistance	)	
	)	
Defendants.	)	

**COMPLAINT**

Now comes Plaintiff, MICHAEL L FRANKLIN (hereinafter shall be referred to as the "Plaintiff"), Pro se, hereby files his Complaint against Defendants Carmela Smith, Omaha Housing Authority and General Assistance (the Defendants) for Wrongful Termination of Lease, Breach of Contract, Harassment, Discrimination and Fraud. In support thereof the Plaintiff states as follows:

**JURISDICTION AND VENUE**

1. This is an action for damages where the amount in controversy exceeds FIFTEEN THOUSAND AND 00/100 DOLLARS (\$15,000.000).

2. The Plaintiff is an individual residing at 122 N 36TH ST APT 23

3. The Defendant No. 1, (Omaha Housing Authority) is a State-owned Agency doing business at 1823 Harney St, and is otherwise *sui juris*.

4. Defendant No. 2 (Carmela Smith) is an individual residing at 600 S 27TH ST and is otherwise *sui juris*.

5. Defendant No. 3 (General Assistance) is a State-Owned Agency providing welfare assistance to Defendant No. 1 (Omaha Housing Authority) for rent assistance doing business at 1111 S 41st St #220 and is otherwise *sui juris*.

6. Pursuant to § 28 U.S.C. § 1332, Venue is proper for this action in Douglas County as the Defendants resides and do business in Douglas County Nebraska.

### **STATEMENT OF THE CASE**

7. This is an action for damages arising from the Defendants Wrongful Termination of Lease Agreement, *see attached as Exhibit A*, Breach of Contract, Harassment, Discrimination and Fraud. On [date], Plaintiff leased the apartment No.

600 S 27TH ST APT 403 from Defendant No. 2 in return of \$ 50 amount of monthly rent. It is pertinent to mention here that the Plaintiff always paid monthly rent to Defendant No. 2 in timely manner and never missed the due date.

8. However, on 11/02/20, Defendant No.2 wrongfully terminated the Lease Agreement on the basis of false accusation that Plaintiff threatened members of the staff at the premises of Defendant No. 2. In fact, Defendant No. 2 Terminated the Lease

Agreement after the Plaintiff reported the site manager at the premises of the Defendant No.2 for illegally, fraudulently with malafide intention received housing assistance welfare in Plaintiff's name without the Plaintiff's consent or/and permission. Defendant No.2 site manager on number of incidents received/stole Plaintiff's housing assistance welfare in Plaintiff's name *see the letter attached as Exhibit B* and attempted to double charge the Plaintiff for the apartment monthly rent.

9. Defendant No. 1 with connivance of the Defendant No. 2 illegally, fraudulently with malafide intention received housing assistance welfare in Plaintiff's name without the Plaintiff's consent or/and permission and discriminated against the Plaintiff as result of Plaintiff's whistleblowing the fact the Defendant No. 1 and Defendant No. 2 are involved in illegal and fraudulent act of receiving Plaintiff's housing assistance funds in the name of Plaintiff.

10. Defendant No. 3 harassed and discriminated against the Plaintiff. After the above-mentioned revelation that both Defendants No. 1 and 2 are involved in an illegal and fraudulent act of receiving Plaintiff's housing assistance welfare funds in the name of Plaintiff, Plaintiff contacted Defendant No. 3 and reported such incident to them in order to get documents regarding Plaintiff's housing assistance welfare funds. However, Defendant No. 3 instead of helping Plaintiff supported Defendant No. 1 and 2 and the site manager and threatened, harassed the Plaintiff for withholding Plaintiff's housing assistance welfare funds and refused to share Plaintiff's housing assistance welfare funds documents. Thus, this Suit.

11. As a result of the Defendants actions, the Plaintiff has suffered damages for which the Defendant should compensate the Plaintiff.

12. Defendant breached the contract by wrongful terminating the Lease Agreement with the Plaintiff.



**COUNT 1**  
**WRONGFUL TERMINATION OF LEASE/BREACH OF CONTRACT**

13. Plaintiff incorporates and re-alleges the allegations set forth in paragraph 1-12, as though fully restated herein.

14. Defendant No. 1 breached the Contract by wrongfully terminating the Lease Agreement with the Plaintiff on the basis of false accusation that Plaintiff threatened members of the staff at the premises of Defendant No. 2. Nebraska contract law governs this diversity action. *JN Exploration & Prod. v. W. Gas Res., Inc.*, 153 F.3d 906, 909 (8th Cir.1998) (stating “it is axiomatic that federal courts apply state substantive law in diversity suits”). When a federal district court exercises its diversity jurisdiction over claims brought under state law causes of action, it is bound by the state’s law as determined by the highest court in that state. *Foy v. Klapmeier*, 992 F.2d 774, 780 (8th Cir.1993). Under Nebraska law, “[i]n order to recover in an action for breach of contract, the plaintiff must plead and prove the existence of a promise, its breach, damages, and compliance with any conditions precedent that activate the defendant's duty.” *Henriksen v. Gleason*, 643 N.W.2d 652, 658 (Neb. 2002). “In any damage action for breach of contract, the claimant must prove that the breach of contract was the proximate cause of the damages.” *Sack Bros. v. Great Plains Co-op., Inc.*, 616 N.W.2d 796, 809 (Neb. 2000). “As a general rule, a party injured by a breach of contract is entitled to recover all damages which are reasonably certain and which are naturally expected to follow the breach.” *Phipps v. Skyview Farms, Inc.*, 610 N.W.2d 723, 733 (Neb. 2000). “[T]he ultimate objective of a damages award is to put the injured party in the same position that the injured party would have occupied if the contract had been performed, that is, to make the injured party whole.” *Centurion Stone of Neb. v. Trombino*, 812 N.W.2d 303, 309 (Neb. 2012). “One injured by a breach of contract is

entitled to recover all damages, including the gains prevented as well as the losses sustained, provided the damages are reasonably certain and such as might be expected to follow the breach.” Gary’s Implement, Inc. v. Bridgeport Tractor Parts, Inc., 799 N.W.2d 249, 257 (2011). Under Nebraska law, consequential damages, as opposed to direct damages, are those that “do not arise directly according to the usual course of things from the breach itself; rather, they occur as a consequence of special circumstances known or reasonably supposed to have been contemplated by the parties when the contract was made.” Adams v. American Cyanamid Co., 498 N.W.2d 577, 588 (Neb. App. 1992). Direct damages refer to those which the party lost from the contract itself—in other words, the benefit of the bargain—while consequential damages refer to economic harm beyond the immediate scope of the contract. Penncro Assocs., Inc. v. Sprint Spectrum, L.P., 499 F.3d 1151, 1156 (10th Cir. 2007); see Restatement (Second) of Contracts § 347(a) & cmts. a, c (1981); Black’s Law Dictionary 416–17 (8th ed. 2004); 24 Samuel Williston & Richard A. Lord, A Treatise on the Law of Contracts § 64.12 (4th ed. 1993). Lost profits, under appropriate circumstances, can be recoverable as a component of either direct or consequential damages, or both. Penncro Assocs., 499 F.3d at 1156. For example, “if a services contract is breached and the plaintiff anticipated a profit under the contract, those profits would be recoverable as a component of direct benefit of the bargain damages”; whereas, if the same breach caused the plaintiff to “close its doors, precluding it from performing other work for which it had contracted and from which it expected to make a profit,” those lost profits would be consequential damages. *Id.* (noting that, under normal legal meaning of the terms, “[t]he more general term [consequential damages] informs the subsequently listed examples [including lost profits], not the other way around, and so lost profits here refer only to those that are ‘a part or component’ of the

larger group or class of consequential damages”); see also Peter Kiewit Sons’ Inc. v. ATSER, LP, No. 8:08CV541

**COUNT 2**  
**HARASSMENT/FRAUD/DISCRIMINATION**

15. Plaintiff Plaintiff incorporates and re-alleges the allegations set forth in paragraph 1-14, as though fully restated herein.

16. The Defendants No. 1 and 2 illegal acts of receiving Plaintiff’s housing assistance welfare funds and Defendant No. 3 failure to share the documents with Plaintiff and threatening the Plaintiff for withholding Plaintiff’s housing assistance welfare funds constitutes Harassment, Fraud and Discrimination.

17. Due to the Defendants Harassment, Fraudulent and Discriminatory acts Plaintiff suffered damages in amount that will be established at trial.

**JURY DEMAND**

Plaintiff demands a jury as to all counts in the Complaint.

WHEREFORE, the Plaintiff [your full name], demands judgement against the Defendants, Carmela Smith, Omaha Housing Authority and General Assistance for damages and other relief this Honourable Court deems just and proper.

A handwritten signature in black ink, appearing to be 'MJ', is written over a horizontal line.

Your Signatures